

THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ASHLEY HOWES,

Plaintiffs,

vs.

THE CITY OF SEATTLE, DETECTIVE
CARL CHILO, DETECTIVE SHARON
STEVENS, DETECTIVE PAUL TAKEMOTO
and DETECTIVE NATHAN JANES,

Defendants.

)
)
) No. 11-cv-02078-RSM
)
) DEFENDANT'S ANSWER AND
) AFFIRMATIVE DEFENSES TO
) PLAINTIFF'S COMPLAINT

COMES NOW defendant City of Seattle, by and through its attorneys of record, Peter S. Holmes, Seattle City Attorney, Brian G. Maxey, Assistant City Attorney, Dominique' L. Jinhong, Assistant City Attorney, and hereby submits its Answer and Affirmative Defenses to Plaintiff's Complaint, and alleges as follows:

I. PARTIES AND JURISDICTION

1.1. Answering paragraph 1.1 of the Complaint, Defendant admits that Plaintiff, Ashley Howes purports to be a resident of Port Townsend, Washington and that her current surname is "Stone."

1 1.2. Answering paragraph 1.2 of the Complaint, Defendant City of Seattle admits that it is
2 municipal corporation in existence under the laws of the State of Washington.

3 1.3. Answering paragraph 1.3 of the Complaint, Defendant City of Seattle admits that
4 Detectives Takemoto and Janes are individual law enforcement officers employed by the City of
5 Seattle in its Police Department. In further answer, the City admits that Detectives Chilo and Stevens
6 were employees of the City at the time of the subject incident, but have subsequently retired.

7 II. BACKGROUND

8 2.1. Answering paragraph 2.1 of the Complaint, Defendant lacks sufficient knowledge as to
9 form a belief as to the truth or falsity of the narrative facts set forth and therefore, at this time, deny the
10 same, except admits that Fraya Garden was taken by paramedics to Harborview Medical Center.

11 2.2. Answering paragraph 2.2 of the Complaint, Defendant admits that plaintiff was driven
12 from Harborview Medical Center to Seattle Police Headquarters, but denies the remainder of
13 allegations in this paragraph.

14 2.3. Answering paragraph 2.3 of the Complaint, Defendant lacks sufficient knowledge as to
15 form a belief as to the truth or falsity of the narrative facts set forth, but specifically deny any
16 successive and coercive interrogations or that any civil rights violations occurred.

17 2.4. Answering paragraph 2.4 of the Complaint, Defendant lacks sufficient knowledge as to
18 form a belief as to the truth or falsity of the narrative facts set forth, but specifically deny the
19 characterization of the interviews as interrogations or that any unlawful arrest occurred.

20 2.5. Answering paragraph 2.5 of the Complaint, Defendant lacks sufficient knowledge as to
21 form a belief as to the truth or falsity of the narrative facts set forth, but specifically deny any
22 successive and coercive interrogations or that any civil rights violations occurred.
23

1 2.6. Answering paragraph 2.6 of the Complaint, Defendant lacks sufficient knowledge as
2 to form a belief as to the truth or falsity of the narrative facts set forth, but specifically deny any
3 successive and coercive interrogations or that any civil rights violations occurred.

4 2.7. Answering paragraph 2.7 of the Complaint, Defendant admits that Detective Janes
5 wrote in a police report, in sum and substance, that “[t]hey has not *Mirandized* [Ms. Howes] and hadn’t
6 considered her to be a suspect either.” and that he wrote “I was unsure of the legal issues regarding
7 interviewing a thirteen year-old suspect.” Defendant denies the remainder of the allegations in this
8 paragraph.

9 2.8. Answering paragraph 2.8 of the Complaint, Defendant admits that Ms. Howes was
10 arrested, handcuffed, and transported to the Youth Service Center for the night. Defendant denies the
11 remainder of the allegations in this paragraph.

12 2.9. Answering paragraph 2.9 of the Complaint, Defendant admits that Detective Janes and
13 Takemoto were working with Deputy Prosecuting Attorney Christine Herman from the King County
14 Prosecutor’s Officer and that she was present during interviews behind one-way glass. Defendant
15 denies the remainder of the allegations in this paragraph.

16 2.10. Answering paragraph 2.10 of the Complaint, Defendant admits that Detective Janes
17 wrote the italicized statement, in sum and substance, in a police report and that Ms. Howes was
18 returned to the Youth Service Center at 10:25 p.m. Defendant further admits that the videotape was
19 started at 3:05. Defendant denies the remainder of the allegations in this paragraph.

20 2.11. Answering paragraph 2.11 of the Complaint, Defendant admits that Ms. Howes was
21 released to her home, that the King County Superior Court held a multi-day hearing, and that the
22 majority of statements given by Ms. Howes were suppressed. Defendant denies the remainder of the
23 allegations in this paragraph.

1 2.12. Answering paragraph 2.12 of the Complaint, Defendant admits that the majority of
2 statements were introduced by the defense at the 3.5 hearing in King County Superior Court.
3 Defendant denies the remainder of the allegations in this paragraph.

4 III. CAUSES OF ACTION

5 3.1. Answering paragraph 3.1 of the Complaint, Defendant denies the same.

6 3.2. Answering paragraph 3.2 of the Complaint, Defendant denies the same

7 IV. PRAYER FOR RELIEF

8 Defendant denies that plaintiff is entitled to any of the relief requested in this section.

9 AFFIRMATIVE DEFENSES

10 1. Plaintiff has failed to state a claim upon which relief may be granted.

11 2. The City, a municipal corporation, is immune from liability for prejudgment interest
12 on tort judgments and is immune from punitive damages.

13 3. Defendant City has not violated any rights, privileges or immunities under the
14 Constitution or laws of the United States or the State of Washington or any political subdivision
15 thereof.

16 4. At all times relevant to the acts alleged in the complaint, the duties and functions of
17 Defendant City's officials entailed the reasonable exercise of proper and lawful discretion.

18 5. Plaintiff's state law claims are barred in whole, or in part, by governmental
19 immunity for discretionary, policy-making and/or judgmental functions and decisions.

20 6. Any injury alleged to have been sustained resulted from plaintiff's own culpable or
21 negligent conduct or that of third parties and was not the proximate result of any act of the
22 defendants.

23 7. There was probable cause for plaintiff's detention and arrest.

JURY TRIAL DEMAND

Defendants respectfully demand a trial by jury of all issues so triable.

WHEREFORE, defendant respectfully requests that the Complaint be dismissed with prejudice, that it be awarded costs and reasonable attorneys' fees herein, and that it be granted such other and further relief as the Court finds just and equitable.

DATED this 23rd day of January, 2012.

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